

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
IDS TELCOM, LLC
OCN# 8368
File No. EB-01-IH-0017h
NAL/Acct. No. 200132080039
FRN 0006-7988-13

FORFEITURE ORDER

Adopted: June 20, 2002

Released: June 21, 2002

By the Chief, Enforcement Bureau:

I. INTRODUCTION

1. In this Order, we issue a monetary forfeiture to IDS Telcom, LLC ("IDS") for willful violation of 47 C.F.R. § 52.15(f). The noted violation involves IDS's failure to report its number utilization and forecast data. Based upon our review of the facts and circumstances of this case, including IDS's response to our Notice of Apparent Liability ("NAL"), we conclude that IDS has justified a reduction of the proposed forfeiture and that it is liable for a forfeiture in the amount of \$3,000.

II. BACKGROUND

2. On April 24, 2001, the Chief, Enforcement Bureau, acting pursuant to delegated authority, issued a Notice of Apparent Liability for Forfeiture ("NAL") to IDS, proposing a \$6,000 forfeiture. We issued the NAL because it appeared that IDS had failed to report on its actual and forecast number usage by filing FCC Form 502, the North American Numbering Plan Numbering Resource Utilization/Forecast ("NRUF") Report that was due on September 15, 2000. The NAL referenced a letter of inquiry that we sent to IDS on January 29, 2001 concerning its apparent failure to file the September

1 See IDS Long Distance, 16 FCC Rcd 8620 (EB 2001). IDS reports that its name has been changed from "IDS Long Distance" to "IDS Telecom, LLC."

2 The NRUF reports are due on or before February 1 and on or before August 1 of each year. See 47 C.F.R. § 52.15(f)(6). However, we note that the deadline for filing reports due August 1, 2000 was extended to September 15, 2000. Numbering Resource Optimization, CC Docket No. 99-200, 15 FCC Rcd 17005 (2000).

15, 2000 NRUF report.

3. Carriers are required to report for each separate legal entity represented by an Operating Company Number (“OCN”).³ It appeared that IDS failed to file an NRUF report for one OCN, which was referenced in our *NAL*. We therefore determined that IDS had apparently violated section 52.15(f) of the Commission’s rules, which requires U.S. carriers receiving numbering resources from the North American Numbering Plan Administrator (“NANPA”), a Pooling Administrator, or another telecommunications carrier, to report semiannually on their actual and forecast number usage.⁴

4. IDS responded to the *NAL* and requested cancellation of the forfeiture. IDS contends that it filed the NRUF report on January 25, 2001 and subsequently refiled the report after receiving our letter of inquiry. In addition, IDS argues that the reporting requirements of section 52.15(f) were recently adopted, and that it has implemented procedures to ensure timely compliance with the reporting requirements in the future.

III. DISCUSSION

5. The *NAL* explicitly states that the proposed forfeiture was assessed in accordance with applicable statutory provisions, the Commission’s rules and the Commission’s *Forfeiture Guidelines*.⁵ Section 503(b) of the Act requires that, in examining IDS’s response, we take into account the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁶ IDS has not presented mitigating evidence that would justify cancellation of the forfeiture.

6. IDS has demonstrated that it filed the NRUF report by facsimile on January 25, 2001. IDS also argues that its actions were not “willful.” However, the NRUF report at issue was due on September 15, 2000, and, absent a waiver, would not have been accepted for filing on January 25, 2001.⁷

³ See 47 C.F.R. § 52.15(f)(3)(ii).

⁴ *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 99-200, 15 FCC Rcd 7574 (2000)(“*NRO Order*”); *recon. and clarification in part*, Second Report and Order, Order on Reconsideration in CC Docket 96-98 and CC Docket 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket 99-200, 16 FCC Rcd 306 (2000)(“*NRO Recon. Order*”).

⁵ 47 U.S.C. § 503(b); 47 C.F.R. § 1.80; *The Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999)(“*Forfeiture Guidelines*”)(codified at 47 C.F.R. § 1.80(b)(4) Note).

⁶ 47 U.S.C. § 503(b)(2)(D).

⁷ In addition, it appears that IDS may not understand NRUF filing procedures. Filing advice, and material for filing FCC Form 502, North American Numbering Plan “Numbering Resource Utilization/Forecast (NRUF) Report” can be obtained electronically from the North American Numbering Administrator’s web site <http://www.nanpa.com/nruf/index.html>. The North American Number Administrator may also be contacted by telephone at (202) 533-2654 or 202-533-2657. Carriers may arrange to file NRUF reports via facsimile by first contacting NANPA at (202) 534-2654 for instructions and information concerning fees associated with facsimile filing. See also, *NRO Order*, 15 FCC Rcd at 7598 (2000)(directing NANPA to establish procedures for permitting small carriers to use facsimile transmission of numbering data).

IDS has not demonstrated that it received a waiver of the filing deadline. Moreover, contrary to IDS's assertion, the term "willful," as used in section 503(b) of the Act, does not require a finding that the rule violation was intentional or that the violator was aware that it was committing a rule violation.⁸ In view of these circumstances, we find that rescission of the monetary forfeiture is not warranted. Additionally, IDS's pledge of future compliance and its implementation of procedures to ensure the timeliness of future NRUF filings do not justify reduction or cancellation of the proposed forfeiture penalty.⁹

7. Nevertheless, IDS's submission does demonstrate a good faith (albeit tardy) attempt to comply with the NRUF filing requirement. We therefore conclude that a reduction of the forfeiture amount is warranted.¹⁰ We have reviewed IDS's response in light of the statutory factors set forth above, and find that IDS has justified a reduction of the proposed forfeiture penalty from \$6,000 to \$3,000.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED, pursuant to 47 U.S.C. § 503(b), and 47 C.F.R. § 0.111, 0.311 and 1.80, that IDS Telcom, LLC FORFEIT to the United States the sum of three thousand dollars (\$3,000) for willfully violating the Commission's rules that require U.S. carriers to report actual and forecast number usage.

9. Payment of the forfeiture may be made by mailing a check or money order, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482, within 30 days of the release of this Forfeiture Order.¹¹ The payment MUST INCLUDE the FCC Registration Number (FRN) referenced above and also should note the NAL/Acct. No. referenced above. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to 47 U.S.C. § 504. A request for payment of the full amount of this Forfeiture Order under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹²

⁸ See, e.g., *Valley Page*, 12 FCC Rcd 3087, 3088-89 (WTB 1997).

⁹ See *Station KGVV, Inc.*, 42 FCC 2d 258, 259 (1973). See also *Coleman Enterprises, Inc.*, 16 FCC Rcd 10016, 10020-21 (2001), citing *Long Distance Services, Inc.*, 13 FCC Rcd 4444 (CCB 1998)(all common carriers are required to comply with the Commission's rules, regardless of size or resources, and remedial efforts do not alter the fact that violations had taken place or justify mitigation).

¹⁰ See, e.g., *Data Investments, Inc.*, 16 FCC Rcd 7905 (EB 2001).

¹¹ See 47 C.F.R. § 1.80(h).

¹² See 47 C.F.R. § 1.1914.

10. IT IS FURTHER ORDERED that a copy of this Forfeiture Order shall be sent by Certified Mail/Return Receipt Requested, to Miyoshi D. Smith, IDS Telcom, LLC, 1525 N.W. 167th Street, 2nd Floor, Miami, FL 33169.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau